

## **REMARKS/ARGUMENTS**

### **Amendment of the Specification**

Page 4 of the substitute specification has been amended to note that the VDF copolymer can contain 8-12% of HFP (as in Claims 33, 47, 61 and 68), for example 9-11%, of HFP. Basis for this amendment is in PCT claim 7.

### **Amendment of the Claims**

Claims 33, 60, 61 and 64 have been amended in the way suggested by the Examiner in order to overcome the rejections under 35 USC 112.

Claims 47 and 68 have been restricted to require that the fluorinated comonomer is hexafluoropropylene.

### **The Rejection under 35 USC 112**

Applicant respectfully traverses the rejection of claims 33, 60, 61 and 64, insofar as that rejection is applicable to the amended claims. As noted above, these claims have been amended in the way suggested by the Examiner in order to overcome the rejection.

### **The Double Patenting Rejection.**

Applicant files herewith a Terminal Disclaimer to overcome the double patenting rejection.

### **The Rejection under 35 USC 102(f)**

Applicant respectfully traverses the rejection of claims 28-33, 37-43, 46-54, 57-71, 74 and 75 under 35 USC 10(f), for the following reasons.

The claims of this application require that the second layer consists of a second polymeric composition consisting of the second polymeric portion and optionally a second additive portion, the second polymeric portion comprising at least 50% by weight, based on the weight of the second polymeric composition, of polyvinylidene fluoride (PVDF) or a vinylidene fluoride (VDF) copolymer consisting essentially of (a) repeating units derived from vinylidene fluoride, and (b) repeating units derived from a fluorinated comonomer. In the specific examples, the second polymeric composition is either PVDF or a VDF/HFP copolymer containing 10 weight %HFP, i.e. 90 weight% VDF.

In US Patent No. 6,753,478, the corresponding second layer is composed of a second polymeric composition consisting of a second polymeric component and optionally a second monomeric component, **the second polymeric component** comprising at least 10% (preferably at least 50%, very preferably at least 90%, especially 100%) by weight of "non-PVDF-based fluoropolymer, preferably based on ETFE or ECTFE, and **being free of polymers containing more than 50% by weight, based on the weight of the polymer, of repeating units derived from vinylidene fluoride**" (emphasis added). Thus, the definition of the second polymeric compositions in US Patent No. 6,753,478 is different from the definition of the second polymeric compositions in the present application and explicitly excludes the second polymeric compositions specifically exemplified in the present application. The definitions overlap only to the extent that both include a second polymeric composition which contains (i) a non-PVDF-based fluoropolymer in amount at least 10%, and (ii) a VDF copolymer which contains less than 50% by weight of units derived from VDF. Neither US Patent No. 6,753,478 nor the present application contains any specific description of a polymer in the overlap area.

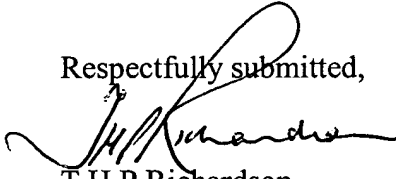
It is submitted that under these circumstances, even if US Patent No. 6,753,478 had been published before the priority date of this application (and of course it has not been so published), it would not invalidate claims of this application under 35 USC 102. Still less can it be regarded as a proper basis for rejection under 35 USC 102(f).

For the sake of completeness, it is noted that the foreign priority date of this application (September 17, 1998) is earlier than the foreign priority date of US Patent No. 6,753,478 (March 16, 2000); that the PCT filing date of this application (September 17, 1999) is earlier than both the foreign priority date and the PCT filing date of US Patent No. 6,753,478; and that the applicant for the present application, Rodway, is one of the inventors of US Patent No. 6,753,478. These facts are entirely consistent with a conclusion that the subject matter of US Patent No. 6,753,478 was a later invention made jointly by Rodway and the two further inventors named in US Patent No. 6,753,478.

## 10 CONCLUSION

It is believed that this application is now in condition for allowance, and Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If, however, there are any outstanding issues that could usefully be discussed by telephone, the Examiner is asked to call the undersigned.

Respectfully submitted,



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